IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

WP(C).No. 7132 of 2007(Y)

PETITIONER:

M/S.RENT WORKS INDIA (P) LTD.,
LAXMI TOWER, BANDRA KURLA COMPLEX,
BANDRA (E), MUMBAI, REPRESENTED BY ITS
MANAGER, SRI.N.K.UNNIKRISHNAN.

BY ADV. SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN

RESPONDENTS:
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1. SALES TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, AMARAVILA.

2. COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECKPOST, ARYANKAVU.

BY GOVERNMENT PLEADER SRI. MUHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 7132/2007 Y

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE AGREEMENT DT. 12/11/2005.

EXT.P2. COPY OF THE NOTICE U/S. 47(2) OF THE KVAT ACT ISSUED BY THE R1 DT. 23/2/2007.

EXT.P3. COPY OF THE NOTICE U/S. 47(2) OF THE KVAT ACT ISSUED BY R1 DT. 23/2/2007.

EXT.P4. COPY OF THE -DO- ISSUED BY R2 DT. 25/2/2007.

EXT.P5. COPY OF THE MONTHLY RETURN FOR THE MONTH OF JANUARY 2007 DT. 09/02/2007.

EXT.P6. COPY OF THE CERTIFICATE ISSUED BY ASSISTANT COMMISSIONER DT. 23/2/2007.

True copy

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K.BALAKRISHNAN NAIR, J.

W.P.(C).No.7132 of 2007-Y

Dated this the 6th day of March, 2007

JUDGMENT

The petitioner challenges Exts.P2 to P4 notices issued under Section 47(2) of the Kerala Value Added Tax Act, 2003 calling upon it to furnish security for the amount demanded therein on the ground that the petitioner is not a registered dealer and the furniture consigned are intended for resale. The petitioner produced Ext.P6 certificate which would show that it has registration under the Kerala Value Added Tax Act and Central Sales Tax Act. It is also submitted that a mistake has been committed while giving the TIN number in the invoice. Therefore, it is a minor or technical error and the goods may be directed to be released under the proviso to Section 47 (2), it is submitted. It is also admitted that Ext.P6 is correct and the petitioner is a valid registered dealer under the Kerala Value Added Tax Act and Central Sales Tax Act.

2. Heard the learned Government Pleader for the respondents. The learned Government Pleader points out that the volume of furniture brought is substantial and therefore mistake in the TIN number may not be innocent.

3. The respondents 1 and 2 are directed to consider the release

of the respective goods detained by them under the proviso to Section 47 (2) of the Kerala Value Added Tax Act. In case they are of the opinion that the goods cannot be released under those proviso, they shall be released on furnishing security as provided under Rule 67 read with Rule 19 (2) of the Kerala Value Added Tax Rules on production of a copy of this judgment. The Commercial Taxes Officer (Enquiry) having jurisdiction over the matter shall finalise the proceedings initiated against the petitioner by issuing Exts.P2 to P4 notices as expeditiously as possible at any rate within one month from the date of production of a copy of this judgment, after affording an opportunity of being heard to the petitioner.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

MS